MONTANA LEGISLATIVE HISTORY

Chapter 149 19 65

Bill H _____ S 94 Original bill & history ___C

H. Committee on Labor & Compensation			S. Committee on Commerce & Labor		
Hearing Date(s)	_____	___C	Hearing Date(s)	Feb 10	✓C
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Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

Note: There are no House minutes.

February 10, 1965

MR. PRESIDENT:

We, your Committee on Commerce and Labor having had under consideration Senate Bill No. 94

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION 92-701, REVISED CODES OF MONTANA, 1947, AS LAST AMENDED BY CHAPTER 162, LAWS OF MONTANA, 1961, AND AMENDING SECTION 92-702, REVISED CODES OF MONTANA, 1947, AS LAST AMENDED BY CHAPTER 162, LAWS OF MONTANA, 1961, AND AMENDING SECTION 92-703, REVISED CODES OF MONTANA, 1947, AS LAST AMENDED BY CHAPTER 162, LAWS OF MONTANA, 1961, AND AMENDING SECTION 92-704, REVISED CODES OF MONTANA, 1947, AS LAST AMENDED BY CHAPTER 162, LAWS OF MONTANA, 1961, AND AMENDING SECTION 92-709, REVISED CODES OF MONTANA, 1947, AS LAST AMENDED BY CHAPTER 162, LAWS OF MONTANA, 1961, ALL RELATING TO INCREASES IN WORKMEN'S COMPENSATION AND BENEFITS AND LENGTH OF TIME FOR BENEFITS, FOR TEMPORARY TOTAL, PERMANENT TOTAL, OR PARTIAL DISABILITIES, INJURY CAUSING DEATH, AND SPECIFIED INJURIES; AND AMENDING SECTION 92-418, REVISED CODES OF MONTANA, 1947, AS LAST AMENDED BY CHAPTER 162, LAWS OF MONTANA, 1961, RELATING TO THE DEFINITION OF 'INJURY' OR 'INJURED', AND INCLUDING OCCUPATIONAL DISEASES UNDER THE WORKMEN'S COMPENSATION ACT; AND AMENDING SECTION 92-834, REVISED CODES OF MONTANA, 1947, PROVIDING FOR TRIAL BY JURY OF ISSUES OF FACT RAISED BY APPEAL AND FOR APPEALS TO BE TRIED IN SAME MANNER AS CIVIL ACTIONS; AND ESTABLISHING LOSS OF ABILITY AS A GUIDE FOR DETERMINING DEGREE OF PERMANENT PARTIAL DISABILITY; REPEALING ALL ACTS AND PARTS OF ACTS IN CONFLICT HEREWITH; AND PROVIDING AN EFFECTIVE DATE."

Respectfully report as follows: That Senate Bill no. 94 be amended as follows:

Amend the original bill, in the title on line 15, after the word "BENEFITS" and before the work "FOR", by striking the words "AND LENGTH OF TIME FOR BENEFITS,"

And further amend the original bill, in the title, on line 17, after the word "INJURIES" and punctuation "semi-colon" by inserting "AND LENGTH OF TIME FOR BENEFITS FOR INJURED CAUSING DEATH;"

And further amend the original bill, in the title, on line 17, following the word and punctuation "INJURIES;" by deleting the words and figures in said tital appearing on lines 17, 18, 19, 20, 21, 22, 23, 24 and 25, and ending with the word and punctuation "DISABILITY;" and preceding the word "REPEALING" on line 26 of said title

Amend the original bill on page 2, Section 1, lines 4 and 5 by striking the words, figures, and underlining "thirty-nine dollars ($39.00)" and inserting in lieu thereof the words, figures, and underlining "thirty-five dollars ($35.00)"

And further amend the original bill on page 2, Section 1, line 10 by striking the words, figures, and underlining "forty-two dollars ($42.00)" and inserting in lieu thereof the words, figures, and underlining "thirty-eight dollars ($38.00)"

And further amend the original bill on page 2, Section 1, line 16 by striking the words, figures and underlining "forty-six dollars ($46.00)" and inserting in lieu thereof the words, figures, and underlining "forty-two dollars ($42.00)"

And further amend the original bill page 2, Section 1, line 21 by striking words, figures, and underlining "fifty dollars ($50.00)" and inserting in lieu thereof the words, figures, and underlining "forty-six dollars ($46.00)"

And further amend the original bill page 2, Section 1, line 26 by striking the words, figures, and underlining "fifty-five dollars ($55.00)" and inserting in lieu thereof the words, figures and underlining "fifty-one dollars ($51.00)"

And further amend the original bill on page 2, Section 1, lines 31 and 32 by striking the words, figures, and underlining "sixty dollars ($60.00)" and inserting in lieu thereof the words, figures and underlining "fifty-six dollars ($56.00)"

And further amend the original bill page 3, Section 1, lines 1 and 2 by striking the words, figures, and underlining "thirty-five and 50/100 dollars ($35.50)" and inserting in lieu thereof the words, figures, and underlining "thirty-one and 50/100 dollars ($31.50)"

And further amend the original bill page 3, Section 2, lines 14 and 15 by striking the words, figures, and underlining "thirty-nine dollars ($39.00)" and inserting in lieu thereof the words, figures, and underlining "thirty-five dollars ($35.00)"

And further amend the original bill on page 3, Section 2, line 20 by striking the words, figures, and underlining "forty-two dollars ($42.00)" and inserting in lieu thereof the words, figures, and underlining "thirty-eight dollars ($38.00)"

And further amend the original bill page 3, Section 2, line 26 by striking the words, figures, and underlining "forty-six dollars ($46.00)" and inserting in lieu thereof the words, figures and underlining "forty-two dollars ($42.00)"

And further amend the original bill page 3, Section 2, line 31 by striking the words, figures, and underlining "fifty dollars ($50.00)" and inserting in lieu thereof the words, figures, and underlining "forty-six dollars ($46.00)"

And further amend the original bill page 4, Section 2, line 3 by striking the words, figures, and underlining "fifty-five dollars ($55.00)" and inserting in lieu thereof the words, figures and underlining "fifty-one dollars ($51.00)"

And further amend the original bill page 4, Section 2, line 8 by striking the words, figures, and underlining "sixty dollars ($60.00)" and inserting in lieu thereof the words, figures, and underlining "fifty-six dollars ($56.00)"

And further amend the original bill page 4, Section 2, line 10 by striking the words, figures, and underlining "thirty-five and 50/100 dollars ($35.50)" and inserting in lieu thereof the words, figures, and underlining "thirty-one and 50/100 dollars ($31.50)"

And further amend the original bill page 4, Section 2, line 13 by striking the word and underlining "entire"

And further amend the original bill page 4, Section 2, lines 13 and 14 after the word and punctuation "disability." by removing the deletion of the following words, figures, and punctuation "but for the period not exceeding five hundred (500) weeks from the date of injury." and by further changing the period after the word "disability" to a comma

And further amend the original bill page 4, Section 3, line 24 by striking the words, figures, and underlining "thirty-nine dollars ($39.00)" and inserting in lieu thereof the words, figures, and underlining "thirty-five dollars ($35.00)"

And further amend the original bill page 4, Section 3, line 30 by striking the words, figures, and underlining "forty-two dollars ($42.00)" and inserting in lieu thereof the words, figures, and underlining "thirty-eight dollars ($38.00)"

And further amend the original bill page 5, Section 3, line 5 by striking the words, figures, and underlining "forty-six dollars ($46.00)" and inserting in lieu thereof the words, figures, and underlining "forty-two dollars ($42.00)"

And further amend the original bill page 5, Section 3, lines 11 and 12 by striking the words, figures, and underlining "fifty dollars ($50.00)" and inserting in lieu thereof the words, figures, and underlining "forty-six dollars ($46.00)"

And further amend the original bill page 5, Section 3, line 17 and 18 by striking the words, figures, and underlining "fifty-five dollars ($55.00)" and inserting in lieu thereof the words, figures, and underlining "fifty-one dollars ($51.00)"

And further amend the original bill page 5, Section 3, line 24 by striking the words, figures, and underlining "sixty dollars ($60.00)" and inserting in lieu thereof the words, figures, and underlining "fifty-six dollars ($56.00)"

And further amend the original bill page 5, Section 3, line 28 by striking the word and underlining "entire"

And further amend the original bill page 5, Section 3, lines 29, 30 and 31 after the word "disability" by removing the deletion of the following words, figures and punctuation "not exceeding however, five hundred (500) weeks in cases of permanent partial disability, and fifty (50) weeks in cases of temporary partial disability.

And further amend the original bill page 6, Section 4, line 11 by striking the words, figures, and underlining "thirty nine dollars ($39.00)" and inserting in lieu thereof the words, figures, and underlining "thirty-five dollars ($35.00)"

And further amend the original bill page 6, Section 4, line 14 by striking the words, figures, and underlining "forty-two ($42.00) dollars" and inserting in lieu thereof the words, figures, and underlining "thirty-eight dollars ($38.00)"

And further amend the original bill page 6, Section 4, line 17 by striking the words, figures, and underlining "forty-six dollars ($46.00)" and inserting in lieu thereof the words, figures, and underlining "forty-two dollars ($42.00)"

And further amend the original bill page 6, Section 4, line 20 by striking the words, figures, and underlining "fifty dollars ($50.00)" and inserting in lieu thereof the words, figures, and underlining "forty-six dollars ($46.00)"

And further amend the original bill page 6, Section 4, lines 23 and 24 by striking the words, figures, and underlining "fifty-five dollars ($55.00)" and inserting in lieu thereof the words, figures, and underlining "fifty-one dollars ($51.00)"

And further amend the original bill page 6, Section 4, line 27 by striking the words, figures, and underlining "sixty dollars ($60.00)" and inserting in lieu thereof the words, figures, and underlining "fifty-six dollars ($56.00)"

And further amend the original bill page 6, Section 4, line 29 by striking the words, figures and underlining "thirty-five and 50/100 ($35.50) dollars" and inserting in lieu thereof the words, figures, and underlining "thirty-one and 50/100 dollars ($31.50)"

And further amend the original bill page 7, Section 4, line 15 by striking the words, figures, and underlining "thirty-nine dollars ($39.00)" and inserting in lieu thereof the words, figures, and underlining "thirty-five dollars ($35.00)"

And further amend the original bill page 7, Section 4, line 18 by striking the words, figures, and underlining "forty-two dollars ($42.00)" and inserting in lieu thereof the words, figures, and underlining "thirty-eight dollars ($38.00)"

And further amend the original bill page 7, Section 4, line 25 by striking the words, figures, and underlining "thirty-nine dollars ($39.00)" and inserting in lieu thereof the words, figures, and underlining "thirty-five dollars ($35.00)"

And further amend the original bill page 7, Section 4, line 28 of the original bill by striking the words, figures, and underlining "forty-two dollars ($42.00)" and inserting in lieu thereof the words, figures, and underlining "thirty-eight dollars ($38.00)"

And further amend the original bill page 7, Section 4, lines 31 and 32 by striking the words, figures, and underlining "fifty dollars ($50.00)" and inserting in lieu thereof the words, figures, and underlining "forty-six dollars ($46.00)"

And further amend the original bill page 8, Section 4, lines 2 after the word "of" by removing the deletion from the following words and figures "three thousand and no/100 dollars ($3,000.00)"

And further amend the original bill page 8, Section 4, lines 2 and 3 by striking the following words, figures, and underlining "seven thousand five hundred and no/100 dollars ($7,500.00)"

And further amend the original bill page 8, Section 4, line 7 by striking the words, figures, and underlining "sixty dollars ($60.00)" and inserting in lieu thereof the words, figures, and underlining "fifty-six dollars ($56.00)"

And further amend the original bill page 8, Section 5, line 23 by striking the words, figures, and underlining "thirty-nine dollars ($39.00)" and inserting in lieu thereof the words, figures, and underlining "thirty-five dollars ($35.00)"

And further amend the original bill page 8, Section 5, line 28 by striking the words, figures, and underlining "forty-two dollars ($42.00)" and inserting in lieu thereof the words, figures, and underlining "thirty-eight dollars ($38.00)"

And further amend the original bill page 9, Section 5, line 2 by striking the words, figures, and underlining "forty-six dollars ($46.00)" and inserting in lieu thereof the words, figures, and underlining "forty-two dollars ($42.00)"

And further amend the original bill page 9, Section 5, line 7 by striking the words, figures, and underlining "fifty dollars ($50.00)" and inserting in lieu thereof the words, figures, and underlining "forty-six dollars ($46.00)"

And further amend the original bill page 9, Section 5, line 12 by striking the words, figures, and underlining "fifty-five dollars ($55.00)" and inserting in lieu thereof the words, figures, and underlining "fifty-one dollars ($51.00)"

And further amend the original bill page 9, Section 5, line 17 by striking the words, figures, and underlining "sixty dollars ($60.00)" and inserting in lieu thereof the words, figures, and underlining "fifty-six dollars ($56.00)"

And further amend the original bill page 9, Section 5, lines 20 and 21 by striking the words, figures, and underlining "thirty-five and 50/100 dollars ($35.50)" and inserting in lieu thereof the words, figures, and underlining "thirty-one and 50/100 dollars ($31.50)"

And further amend the original bill page 11, Section 5, lines 12 and 13 following the word "consecutively," by removing the deletion from the following words, figures, and punctuation "provided, however, that the total award or compensation in no case shall exceed five hundred (500) weeks."

And further amend the original bill, page 11, Section 5, lines 15 and 16 following the word and punctuation "disfigurement," by removing the deletion from the following words, figures and punctuation "not to exceed twenty five hundred dollars ($2,500.00)"

And further amend the original bill page 11, Section 6, line 32 and page 12, Section 6, lines 1, 2, and 3 by removing the deletion from the following words and punctuation "means a tangible happening of a traumatic nature from an unexpected cause, resulting in either external or internal physical harm, and such physical condition as a result therefrom and excluding disease not traceable to injury"

And further amend the original bill page 12, Section 6, lines 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12 following the word and punctuation "injury."" by striking the underlining, punctuation, and words and figures "means damage or harm to the physical structure of the body, nervous system or mental system, resulting from an accident and such disease or infection as naturally results therefrom. Accident means an unlooked for mishap or an untoward event which is not expected or designed. Disease shall include any disease arising out of exposure to harmful conditions of employment. Further, this act and definition shall specifically include, but not be limited to, those diseases defined in Section 92-1304, Revised Codes of Montana, 1947, which diseases shall also be administered and subject to all the provisions of the "Workmen's Compensation Act.""

And further amend page 13, Section 7, lines 8, 9, 10, 11, and 12 after the word and punctuation "case." by striking the following words, punctuation, and underlining "In all appeals from the decision of the industrial accident board any party thereto may demand that all issues of fact raised by said appeal be tried before a jury, said trial shall then be held in the same manner and form as the trial of a civil action is now held."

And further amend the original bill page 13, lines 13, 14, 15, and 16 by striking Section 8 in its entirety.

And further amend the original bill page 13, by changing "Section 9" to be"Section 8" and "Section 10" to be "Section 9"

And as amended

DO PASS

FRANK D. REARDON, CHAIRMAN

trical board. Upon applicant's complying with the rules and requirements promulgated by the state electrical board and, being qualified, successfully completes the examination, he shall pay to the state electrical board an annual license fee of twenty-five dollars ($25) for a master electrician's license; ten dollars ($10) for a journeyman electrician's license, and upon receipt thereof, he shall be issued the proper license by said board. Any person serving a four (4) year electrician apprenticeship under the supervision of a licensed electrician shall be exempt from the licensing provision of this paragraph during training. Provided, however, that credit for the time spent in any electrical school shall be given to the master electrician, journeyman electrician or apprentice for the time spent in said classes, up to a total of two (2) years on the aforementioned four (4) year requirement.

$25.00.

$10.00.

Licensing of those presently qualified.

Section 16. **Licensing of those presently qualified.** Montana resident electricians who, prior to the effective date of this act, have had at least four (4) years practical experience in installing electric wires and equipment covered by the National Electrical Code shall not be required to take the examination, but shall be issued a license by the board upon payment of the proper license fee and furnishing of proof satisfactory to the board of such four (4) years' experience; provided, such application is made within sixty (60) days after July 1, 1965. All Montana resident contractors doing business on the effective date of this act shall be qualified to receive said license if application is made within the time provided herein.

Apprentices—rules and regulations—record kept by state board.

Section 17. **Apprentices — rules and regulations — record kept by state board.** Nothing in this act shall prohibit any person from working as an apprentice in said trade of electrician with an electrician duly licensed by said board as herein provided for, and under such rules and regulations as may be prescribed from time to time by the state electrical board; provided, the name and residence of each apprentice, and the names and residences of their employers, shall be duly filed with said board, and a record shall be kept by said board, showing the names and residences of such apprentices.

Municipal ordinances for electrical standards —authority.

Section 18. **Municipal ordinances for electrical standards—authority.** Any municipality of the state of Montana may by ordinance adopt rules and regulations gov-

erning electrical installations within its corporate limits, but the standards provided for therein shall not be less nor lower than the minimum standards provided for them in the state electrical code.

Disposition of fees.

Section 19. **Disposition of fees.** All monies received under this act shall be deposited with the state treasurer and credited to an account to be designated by the state treasurer as the proper account for the fund hereby created. No money shall be paid out of said fund except upon voucher drawn against said fund, signed and certified to by the secretary of the board. All funds so credited shall be available to the state electrical board for the payment of salaries and expenses incurred by it in the performance of its duties under this act.

Violations —penalty.

Section 20. **Violations—penalty.** Any person or corporation violating any provision of this act shall upon conviction thereof, if a person, be punished by a fine not more than five hundred dollars ($500), or by imprisonment for a term not to exceed six (6) months, or by revocation of his license or by such fine, imprisonment and revocation, in the discretion of the court; and if a corporation, be punished by a fine of not more than one thousand dollars ($1,000). Any officer or agent of a corporation, or member or agent of a co-partnership or association, who shall personally participate in or be accessory to any violation of this act by such co-partnership, association, corporation, shall be subject to the penalties herein prescribed for individuals.

Repealing clause.

Section 21. **Repealing clause.** Sections 16-1180 and 16-1181, Revised Codes of Montana, 1947, and all acts and parts of acts in conflict herewith are hereby repealed.

Effective July 1, 1965.

Section 22. This act shall be in full force and effect from and after the 1st day of July, 1965.

Approved March 2, 1965.

CHAPTER 149

An Act Amending Section 92-701, Revised Codes of Montana, 1947, as Last Amended by Chapter 162, Laws of Montana, 1961, and Amending Section 92-702, Revised Codes of Montana, 1947, as Last Amended by Chapter

162, Laws of Montana, 1961, and Amending Section 92-703, Revised Codes of Montana, 1947, as Last Amended by Chapter 162, Laws of Montana, 1961, and Amending Section 92-704, Revised Codes of Montana, 1947, as Last Amended by Chapter 162, Laws of Montana, 1961, and Amending Section 92-709, Revised Codes of Montana, 1947, as Last Amended by Chapter 162, Laws of Montana, 1961, All Relating to Increases in Workmen's Compensation and Benefits for Temporary Total, Permanent Total, or Partial Disabilities, Injury Causing Death, and Specified Injuries; and Length of Time for Benefits for Injured Causing Death; Repealing All Acts and Parts of Acts in Conflict Herewith; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 92-701, Revised Codes of Montana, 1947, as last amended by Chapter 162, laws of Montana, 1961, be and the same is hereby amended to read as follows:

Compensation—temporary total disability.

"92-701. **Compensation for injury producing temporary total disability.** Where the injured employee has no wife, child, father, mother, brother, or sister residing within the United States who would be entitled to compensation in case of his death, fifty per centum (50%) of the weekly wages received at the time of the injury, subject to a maximum compensation of *thirty-five dollars ($35.00)* per week; where the injured employee has a wife, or child, or father or mother, or brother or sister residing within the United States, who would be entitled to compensation in case of his death, fifty-five per centum (55%) of the weekly wages received at the time of the injury, subject to a maximum compensation of *thirty-eight dollars ($38.00)* per week; where the injured employee has a wife and one (1) child, or two (2) children, or a father and mother, or two (2) or more brothers and/or sisters residing within the United States who would be entitled to compensation in case of his death, sixty per centum (60%) of the weekly wages received at the time of the injury, subject to a maximum compensation of *forty-two dollars ($42.00)* per week; where the injured employee has a wife and two (2) children, or three (3) children residing within the United States who would be entitled to compensation in case of his death,

sixty-two and one-half per centum (62½%) of the weekly wages received at the time of the injury, subject to a maximum compensation of *forty-six dollars ($46.00)* per week; where the injured employee has a wife and three (3) children, or four (4) children residing within the United States who would be entitled to compensation in case of his death, sixty-five per centum (65%) of the weekly wages received at the time of his injury, subject to a maximum compensation of *fifty-one dollars ($51.00)* per week; where the injured employee has a wife and four (4) or more children, or five (5) or more children residing in the United States who would be entitled to compensation in case of his death, sixty-six and two-thirds per centum (66-2/3%) of the weekly wages received at the time of the injury, subject to a maximum compensation of *fifty-six dollars ($56.00)* per week, and subject in all cases to a minimum compensation of *thirty-one and 50/100 dollars ($31.50)* per week, and subject to change when the number of beneficiaries or dependents increases by birth, or decreases. Such compensation shall be paid during the period of disability, but for the period not exceeding three hundred (300) weeks from the date of injury."

Amending clause.

Section 2. That section 92-702, Revised Codes of Montana, 1947, as last amended by chapter 162, laws of Montana, 1961, be and the same is hereby amended to read as follows:

Compensation—total permanent disability.

"92-702. **Compensation for injury producing total disability permanent in character.** Where the injured employee has no wife, child, father, mother, brother or sister residing within the United States who would be entitled to compensation in case of his death, fifty per centum (50%) of the weekly wages received at the time of the injury, subject to a maximum compensation of *thirty-five dollars ($35.00)* per week; where the injured employee has a wife, or child, or father, or mother, or brother or sister residing within the United States who would be entitled to compensation in case of his death, fifty-five per centum (55%) of the weekly wages received at the time of the injury, subject to a maximum compensation of *thirty-eight dollars ($38.00)* per week; where the injured employee has a wife and one (1) child, or two (2) children, or a father and mother, or two (2) or more brothers and/or sisters, residing within the United States who

would be entitled to compensation in case of his death, sixty per centum (60%) of the weekly wages received at the time of the injury, subject to a maximum compensation of *forty-two dollars ($42.00)* per week; where the injured employee has a wife and two (2) children, or three (3) children residing within the United States who would be entitled to compensation in case of his death, sixty-two and one-half per centum (62½%) of the weekly wages received at the time of the injury, subject to a maximum compensation of *forty-six dollars ($46.00)* per week; where the injured employee has a wife and three (3) children, or four (4) children residing within the United States who would be entitled to compensation in case of his death, sixty-five per centum (65%) of the weekly wages received at the time of the injury, subject to a maximum compensation of *fifty-one dollars ($51.00)* per week; where the injured employee has a wife and four (4) children, or five (5) or more children residing within the United States who would be entitled to compensation in case of his death, sixty-six and two-thirds per centum (66-2/3%) of the weekly wages received at the time of the injury, subject to a maximum compensation of *fifty-six dollars ($56.00)* per week; and subject in all cases to a minimum compensation of *thirty-one and 50/100 dollars ($31.50)* per week; and subject to change when the number of beneficiaries or dependents increases by birth, or decreases. Such compensation shall be paid during the period of disability, but for the period not exceeding five hundred (500) weeks from the date of injury."

Amending clause.

Section 3. That section 92-703, Revised Codes of Montana, 1947, as last amended by chapter 162, laws of Montana, 1961, be and the same is hereby amended to read as follows:

Compensation—partial disability.

"92-703. **For partial disability.** Where the injured employee has no wife, child, father, mother, brother or sister residing within the United States who would be entitled to compensation in case of his death, fifty per centum (50%) of the difference between the wages received at the time of the injury and the wages that such injured employee is able to earn thereafter, subject to a maximum compensation of *thirty-five dollars ($35.00)* per week; where the injured employee has a wife, or child, or father, or mother, or brother or sister residing within the United States who would be entitled to compensation in

case of his death, fifty-five per centum (55%) of the difference between the wages received at the time of the injury and the wages that such injured employee is able to earn thereafter, subject to a maximum compensation of *thirty-eight dollars ($38.00)* per week; where the injured employee has a wife and one (1) child, or two (2) children, or a father and mother, or two (2) or more brothers and/or sisters residing within the United States who would be entitled to compensation in case of his death, sixty per centum (60%) of the difference between the wages received at the time of the injury and the wages that such injured employee is able to earn thereafter, subject to a maximum compensation of *forty-two dollars ($42.00)* per week; where the injured employee has a wife and two (2) children, or three (3) children residing within the United States who would be entitled to compensation in case of his death, sixty-two and one-half per centum (62½%) of the difference between the wages received at the time of the injury and the wages that such injured employee is able to earn thereafter, subject to a maximum compensation of *forty-six dollars ($46.00)* per week; where the injured employee has a wife and three (3) children, or four (4) children residing within the United States who would be entitled to compensation in case of his death, sixty-five per centum (65%) of the difference between the wages received at the time of the injury and the wages that such injured employee is able to earn thereafter, subject to a maximum compensation of *fifty-one dollars ($51.00)* per week; where the injured employee has a wife and four (4) or more children, or five (5) or more children residing within the United States who would be entitled to compensation in case of his death, sixty-six and two-thirds per centum (66-2/3%) of the difference between the wages received at the time of the injury and the wages that such injured employee is able to earn thereafter, subject to a maximum compensation of *fifty-six dollars ($56.00)* per week; not exceeding however, the maximum compensation allowed in cases of total disability, and not exceeding in amount or duration the total compensation provided in the act for the total loss of the member causing such partial disability. Such compensation shall be paid during the period of disability, not exceeding however, five hundred (500) weeks in cases of permanent partial disability, and fifty (50) weeks in cases of temporary partial disability, subject to change

when the number of dependents increases by birth, or decreases, provided, however, that compensation for partial disability resulting from the loss of or injury to any member shall not be payable for a greater number of weeks than is specified in section 92-709 for the loss of such member."

Amending clause.

Section 4. That section 92-704, Revised Codes of Montana, 1947, as last amended by chapter 162, laws of Montana, 1961, be and the same is hereby amended to read as follows:

Compensation —death.

"92-704. **Compensation for injury causing death.** For beneficiaries residing within the United States: Where decedent leaves one (1) beneficiary, fifty per centum (50%) of the wages received at the time of the injury, subject to a maximum compensation of *thirty-five dollars ($35.00)* per week; where decedent leaves two (2) beneficiaries, fifty-five per centum (55%) of the wages received at the time of the injury, subject to a maximum compensation of *thirty-eight dollars ($38.00)* per week; where decedent leaves three (3) beneficiaries, sixty per centum (60%) of the wages received at the time of the injury subject to a maximum compensation of *forty-two dollars ($42.00)* per week; where decedent leaves four (4) beneficiaries, sixty-two and one-half (62½%) of the wages received at the time of the injury, subject to a maximum compensation of *forty-six dollars ($46.00)* per week; where decedent leaves five (5) beneficiaries, sixty-five per centum (65%) of the wages received at the time of the injury, subject to a maximum compensation of *fifty-one dollars ($51.00)* per week; where decedent leaves six (6) or more beneficiaries, sixty-six and two-thirds per centum (66-2/3%) of the wages received at the time of the injury, subject to a maximum compensation of *fifty-six dollars ($56.00)* per week; and subject in all such cases to a minimum compensation of *thirty-one and 50/100 dollars ($31.50)* per week.

For beneficiaries residing outside of the United States: Where decedent leaves one (1) beneficiary, forty per centum (40%) of the compensation which would be payable to such beneficiary, if residing within the United States; where decedent leaves two (2) beneficiaries, forty-five per centum (45%) of the compensation which would be payable to such beneficiaries, if residing within

the United States; where decedent leaves three (3) beneficiaries, forty-seven and one-half per centum (47½%) of the compensation which would be payable to such beneficiaries, if residing within the United States; where decedent leaves four (4) or more beneficiaries, fifty per centum (50%) of the compensation which would be payable to such beneficiaries, if residing within the United States.

If decedent leaves no beneficiaries, then compensation shall be payable as follows: To his major dependents, if any, residing in the United States at the date of the happening of the injury; where decedent leaves one (1) major dependent, fifty per centum (50%) of the wages received at the time of the injury, subject to a maximum compensation of *thirty-five dollars ($35.00)* per week; where decedent leaves two (2) major dependents, fifty-five per centum (55%) of the wages received at the time of the injury, subject to a maximum compensation of *thirty-eight dollars ($38.00)* per week.

If the decedent leaves no major dependents, compensation shall be payable to his minor dependents, if any, if residing within the United States at the time of the happening of the injury, as follows: Where decedent leaves one (1) minor dependent, thirty per centum (30%) of the wages received at the time of the injury, subject to a maximum compensation of *thirty-five dollars ($35.00)* per week; where decedent leaves two (2) minor dependents, thirty-five per centum (35%) of the wages received at the time of the injury, subject to a maximum compensation of *thirty-eight dollars ($38.00)* per week; where decedent leaves three (3) or more minor dependents, forty per centum (40%) of the wages received at the time of the injury, subject to a maximum compensation of *forty-six dollars ($46.00)* per week.

If the decedent leaves no major or minor dependents a lump sum in the amount of three thousand and no/100 dollars ($3,000.00) shall be payable to his surviving parent or parents.

All such payments of compensation provided for in this section shall be subject to a maximum compensation of *fifty-six dollars ($56.00)* per week for a period not exceeding five hundred (500) weeks and subject to change when the number of beneficiaries or dependents increases

by birth, or decreases, and provided, further, that compensation payable to major or minor dependents shall not exceed the amount of the dependency."

Amending clause.

Section 5. That section 92-709, Revised Codes of Montana, 1947, as last amended by chapter 162, laws of Montana, 1961, be and the same is hereby amended to read as follows:

Compensation—specified injuries.

"92-709. **Compensation in case of specified injuries.** In case of the following specified injuries, the compensation in lieu of any other compensation provided by this act, shall be as follows: Where the injured employee has no wife, child, father, mother, brother, or sister residing within the United States who would be entitled to compensation in case of his death, fifty per centum (50%) of the wages received at the time of the injury, subject to a maximum compensation of *thirty-five dollars ($35.00)* per week; where the injured employee has a wife, or child, or father or mother, or brother or sister residing within the United States who would be entitled to compensation in case of his death, fifty-five per centum (55%) of the wages received at the time of the injury, subject to a maximum compensation of *thirty-eight dollars ($38.00)* per week; where the injured employee has a wife and one (1) child, or two (2) children, or a father and mother, or two (2) or more brothers and/or sisters residing within the United States who would be entitled to compensation in case of his death, sixty per centum (60%) of the wages received at the time of the injury, subject to a maximum compensation of *forty-two dollars ($42.00)* per week; where the injured employee has a wife and two (2) children or three (3) children residing within the United States who would be entitled to compensation in case of his death, sixty-two and one-half per centum (62½%) of the wages received at the time of injury, subject to a maximum compensation of *forty-six dollars ($46.00)* per week; where the injured employee has a wife and three (3) children, or four (4) children residing within the United States who would be entitled to compensation in case of his death, sixty-five per centum (65%) of the wages received at the time of the injury, subject to a maximum compensation of *fifty-one dollars ($51.00)* per week; where the injured employee has a wife and four (4) or more children, or five (5) or more children residing within the United States who would be entitled to compensation in case of his death, sixty-six and two-thirds per centum (66-2/3%) of the wages received at the time of the injury, subject to a maximum compensation of *fifty-six dollars ($56.00)* per week, subject to change when the number of beneficiaries or dependents increases by birth, or decreases, and subject in all cases to a minimum compensation of *thirty-one and 50/100 dollars ($31.50)* per week, and shall be paid for the following periods:

For loss of:	
One arm at or near shoulder	280 weeks
One arm at the elbow	240 weeks
One arm between wrist and elbow	220 weeks
One hand	200 weeks
One thumb and the metacarpal bone thereof	75 weeks
One thumb at the proximal joint	37 weeks
One thumb at the second distal joint	25 weeks
One first finger and the metacarpal bone thereof	40 weeks
One first finger at the proximal joint	30 weeks
One first finger at the second joint	22 weeks
One first finger at the distal joint	15 weeks
One second finger and the metacarpal bone thereof	37 weeks
One second finger at the proximal joint	20 weeks
One second finger at the second joint	15 weeks
One second finger at the distal joint	8 weeks
One third finger and the metacarpal bone thereof	25 weeks
One third finger at the proximal joint	15 weeks
One third finger at the second joint	10 weeks
One third finger at the distal joint	5 weeks
One fourth finger and the metacarpal bone thereof	15 weeks
One fourth finger at the proximal joint	11 weeks
One fourth finger at the second joint	8 weeks
One fourth finger at the distal joint	6 weeks
One leg at or near the hip joint as to preclude the use of an artificial limb	300 weeks
One leg at or above the knee where stump remains sufficient to permit the use of an artificial limb	200 weeks
One leg between knee and ankle	190 weeks
One foot at the ankle	180 weeks
One great toe with the metatarsal bone thereof	37 weeks

One great toe at the proximal joint	18 weeks
One great toe at the second joint	12 weeks
One toe other than the great toe with the metatarsal bone thereof	16 weeks
One toe other than the great toe at the proximal joint	8 weeks
One toe other than the great toe at second or distal joint	5 weeks
One eye by enucleation	165 weeks
Total blindness of one eye	140 weeks
Total loss of hearing, one ear	40 weeks
Total loss of hearing, both ears	200 weeks

Loss of vision: Where central visual acuity does not exceed 20/200 in the better eye with correcting lenses of the widest diameter of the visual field subtends an angle no greater than 20 degrees, the same as for loss of the eye.

Total loss of use: Indemnity benefits for permanent total loss of use of a member shall be the same as for loss of the member.

Partial loss or partial loss of use: Indemnity benefits for permanent partial loss or loss of use of a member may be for proportionate loss or loss of use of the member.

In any case in which there shall be a loss, or loss of use, of more than one member as set forth in this section, not amounting to permanent total disability, the award of indemnity benefits shall be for the loss, or loss of use thereof, which awards shall run consecutively, provided, however, that the total award or compensation in no case shall exceed five hundred (500) weeks.

Disfigurement: The board may award proper and equitable indemnity benefits for serious face, head, or neck disfigurement, not to exceed twenty-five hundred dollars ($2,500.00) in addition to any other indemnity benefits payable under this section.

The loss of both hands, or both arms, or both feet, or both legs, or both eyes, or any two (2) thereof, in one (1) accident, in the absence of conclusive proof to the contrary shall constitute total disability, permanent in character. Provided, however, that the percentage of permanent disability caused by any single accident or injury shall be so computed as to cover the permanent

disability caused by that particular injury without reference to any previous physical ailment or defect or to any injury previously suffered or any permanent disability caused thereby; provided, that no payment under this section shall be in lieu of the separate benefit of medical and hospital services."

Amending clause.

Section 6. That section 92-418, Revised Codes of Montana, 1947, as last amended by chapter 162, laws of Montana, 1961, be and the same is hereby amended to read as follows:

"Injury" and "injured" defined.

"92-418. **Injury or injured defined.** 'Injury' or 'injured' means a tangible happening of a traumatic nature from an unexpected cause, resulting in either external or internal physical harm, and such physical condition as a result therefrom and excluding disease not traceable to injury."

Amending clause.

Section 7. That section 92-834, Revised Codes of Montana, 1947, be and the same is hereby amended to read as follows:

Appeal—notice —record—trial.

"92-834. **How appeal taken — notice — record — trial.** Said appeal shall be taken by serving a written notice of said appeal upon the chairman of such industrial accident commission, or upon any other member thereof, which said service shall be made by the delivery of a copy of such notice to such chairman or member, and filing the original with the clerk of the court to which said appeal is taken. A copy of such notice must also be served upon the adversary party, if there be any, by mailing the same to said adversary party to such address of such party as said party shall have left with the board. If such party shall have left no address with the board, then no service upon such party shall be required. The order of filing and service of said notice is immaterial. Immediately upon service upon said board of said notice, the said board shall certify to said district court the entire record and proceedings, including all testimony and evidence taken by said board, with the clerk of said district court. Immediately upon the return of such certified record, the district court shall fix a day for the hearing of said cause, and shall cause notice to be served upon the board and upon the appellant, and also upon the adversary party, if there be any. The court may, upon the hearing, for good cause shown, permit additional evidence

to be introduced, but, in the absence of such permission from the court, the cause shall be heard on the record of the board, as certified to the court by it. The trial of the matter shall be de novo, and upon such trial the court shall determine whether or not the board regularly pursued its authority, and whether or not the findings of the board ought to be sustained, and whether or not such findings are reasonable under all the circumstances of the case."

Repealing clause.

Section 8. All acts and parts of acts in conflict herewith are hereby repealed.

Effective July 1, 1965.

Section 9. This act shall be in full force and effect from and after the 1st day of July, 1965.

Approved March 2, 1965.

CHAPTER 150

An Act to Amend Section 77-909 of the Revised Codes of Montana, 1947, as Amended by Chapter 141, Section 1, Laws of 1957, Relating to Providing Educational Opportunities in the Units of the Greater Universities of Montana for the Children of Members of the Armed Forces of the United States Killed While in the Armed Forces of the United States or Dying as a Result of a Disability or Disease Incurred While in Said Service During World War II and/or the Korean Conflict; Repealing All Acts and Parts of Acts in Conflict Herewith; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 77-909 of the Revised Codes of Montana, 1947, as amended by chapter 141, section 1, laws of 1957, be amended to read as follows:

War orphans' attendance without fees.

"77-909. **War orphans' attendance to be without fees.** There shall be established under this act the authority of the state board of education to waive, the charges for the matriculation, tuition, any and all educational fees, for such children of members of the armed forces of the United States who served on active duty during World War II and/or the Korean conflict and who, at the time of entry into such service, had legal residence in this state

and who were heretofore, or shall hereafter be, either killed in action or shall have died as a result of injury, disease, or other disability incurred while in the service of the armed forces of the United States, as are now attending or may hereafter attend any of the units of the greater university of Montana, provided:

Eligibility.

"(a) The educational assistance to which an eligible person is entitled to under this act may be afforded him during the period beginning on his eighteenth birthday, or on the successful completion of his secondary schooling, whichever first occurs, and ending on his twenty-third birthday, except that,

Service with armed forces.

(b) If he serves on duty with the armed forces as an eligible person after his eighteenth birthday but before his twenty-third birthday, then such period shall end five (5) years after his first discharge or release from such duty with the armed forces excluding from such five (5) years all periods during which the eligible person served on active duty before August 1, 1963, pursuant to (1) a call or order thereto issued to him as a reserve after July 30, 1961, or (2) an extension of an enlistment, appointment or period of duty with the armed forces pursuant to the laws of the United States of America; however, in no event shall such period be extended beyond his thirty-first birthday by reason of this paragraph."

Repealing clause.

Section 2. All acts or parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 3. This act shall take effect from date of its passage and approval.

Approved March 3, 1965.

CHAPTER 151

An Act Amending Chapter 259 of the Session Laws of 1963, to Provide for Continuing the Montana Centennial Commission as a Temporary Agency.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Chapter No. 259 of the session laws of 1963 is amended to read as follows: